THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.22518 OF 1995

DATED: 24TH AUGUST, 2006.

Between :

P. Pundarikaksha Rao … Petitioner

And

1. Superintending Engineer, R & B,
   Roads Circle, Balkampet, Hyderabad,
   and 2 others. .. Respondents

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ORDER :

The petitioner claims to be a Class-I Contractor having registered with the Government of A.P.

In response to the tender notice issued by the respondents inviting tenders for execution of works 'SR to Hyderabad to Nagarjunasagar Road from Kms 53/4 to 55/0', the petitioner had participated and he was awarded the work vide agreement dated 21-3-1995. It is alleged that though the agreement was executed in the month of March, 1995, the physical possession of the work site was handed over to the petitioner only in June, 1995. Since by that time the rainy season had commenced, the petitioner had sought extension of time for completion of work. While the things stood thus, the 2nd respondent by letter dated 11-8-1995 informed the petitioner that the work in question was deferred and requested the petitioner not to commence the work. Aggrieved by the same, this writ petition is filed contending inter alia that the deferring of the work by the respondent No.2 amounts to cancellation of the work.

Though the petitioner sought for suspension of the impugned letter dated 11-8-1995 pending disposal of this writ petition, no such relief was granted to the petitioner.

A counter-affidavit has been filed by the 2nd respondent dated 16-1-1996 stating that the work in question was required to be completed before 20-6-1995. However, the petitioner failed to

commence the work and he also did not seek any extension In the meanwhile, instructions were received from the higher officials not to proceed with the work since the said work was one of the works which was not approved by the competent authority i.e., the Engineer-in-Chief. In the circumstances, under the impugned letter, the petitioner was requested not to proceed with the work.

Having regard to the specific plea of the respondents that the work in question was not approved by the competent authority, which stood unrebutted and in the absence of allegation of mala fides against any of the respondents, the impugned action cannot be held to be arbitrary or illegal. Hence, the relief as prayed for cannot be granted.

So far as the petitioner's claim for damages on the ground that he made heavy investments for the execution of the work in question, it is always open to him to work out the appropriate remedy as available under law. Such question which involves disputed questions of fact cannot be decided by this Court in exercise of jurisdiction under Article 226 of the Constitution of India.

Accordingly, granting leave and liberty, the Writ Petition is disposed of. No costs.

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G. ROHINI, J.

Dt. 24-08-2006

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